

WELLESLEY PLANNING BOARD
REGULAR MEETING
MONDAY, JANUARY 6, 2014, 7:30 PM
GREAT HALL - TOWN HALL

MINUTES

Planning Board Present: Jeanne Conroy, Sara Preston, Deborah Carpenter, Neal Glick, and Catherine Johnson

Staff Present: Michael Zehner, Ethan Parsons, and Meghan Jop (Executive Director's/Selectmen's Office)

Also Present: Joe Murray, Lise Olney, Laura Fragasso, Raina McManus, David Himmelberger, Helen Robichaud, John Hartnett, and Elizabeth Brady Murillo

1. Call to Order

Ms. Conroy called the meeting to order at 7:30 p.m.

Mr. Glick asked to make a statement. Ms. Conroy recognized Mr. Glick. Mr. Glick commented that the Board of Selectmen should consult with the Planning Board regarding the purchase of the property abutting the American Legion site, that the Board of Selectmen should talk to the Planning Board in terms of whether the acquisition of that property would be a solution or path to a solution.

2. Public Comments on Matters Not on the Agenda

Ms. Conroy invited comments from members of the public on any matters not on the agenda. Ms. Conroy recognized Ms. Laura Fragasso. Ms. Fragasso spoke to the Board about the impacts of outdoor lighting and the need for regulations on outdoor lighting. Ms. Fragasso provided the Board with copies of reports on outdoor lighting prepared by Fuss & O'Neill for the Town of Concord, materials from the International Dark-Sky Association, and photographs that she had taken.

Members of the Board asked questions and made comments regarding outdoor lighting, discussing the issue with Ms. Fragasso. Mr. Glick suggested that Planning Department staff start to develop some ideas for regulating lighting, considering a performance standard approach. Mr. Zehner suggested that the Board could consider regulating some aspect of outdoor lighting in the updated Off-Street Parking Bylaw.

3. Continued Applications and/or Public Hearings

Ms. Conroy indicated that there were no continued applications or public hearings on the Board's agenda.

4. New Applications and/or Public Hearings

a. PBC#13-006 - ANR for Bike Realty (Dunkin Donuts)/Mass. DCR Property

Documents

- Memo from Planning Department Staff to Planning Board, titled “PBC# 13-006 Dunkin Donuts/Bike Realty ANR - 951 Worcester St. (PID# 200-33) and Cochituate Aqueduct (PID# 199-89)”, dated December 31, 2013;
- ANR Application Form, received December 17, 2013;
- Letter from Steve Zeller, Massachusetts Executive Office for Administration and Finance, to Albert Robinson, dated December 10, 2013; and
- ANR Plan titled “Plan of Land in Wellesley, Massachusetts,” prepared by David E. Ross Associates, Inc., dated December 2, 2013

Ms. Conroy opened consideration of an ANR plan for the Dunkin Donuts/Bike Realty property at 951 Worcester Street, along with a portion of the Cochituate Aqueduct owned the Massachusetts DCR. Mr. Zehner provided the Board with an overview of the plan, indicating that it was associated with the rezoning of the property approved at Special Town Meeting in December 2013, and the agreement to transfer portions of the Aqueduct to the Town and Bike Realty.

Ms. Conroy called for a motion on the plan. Ms. Carpenter made a motion to endorse the plan as presented. Ms. Johnson seconded the motion. Mr. Glick stated the he would abstain from voting due to his objections regarding the underlying transfer of the property. Ms. Conroy called for a vote. The Board voted 4-0 to endorse the plan (Mr. Glick abstained from voting).

b. Review and Recommendation of Applications for January 9, 2014 ZBA

Documents

- Memo from Planning Department Staff to Planning Board, titled “Planning Staff Recommendations January 9, 2014 ZBA Cases”, dated December 30, 2013;
- Copies of Zoning Board of Appeals applications 2014-01 (13 Clovelly Road), 2014-02 (646 Worcester Street), 2014-03 (156 Washington Street), and 2014-04 (27 Roberts Road); and
- Letter from Michael Larkin to Richard Seegel, dated January 2, 2014, regarding ZBA 2013-89 - 646 Worcester Street (ZBA 2014-02), along with attachments (provided to Board at meeting)

Ms. Conroy opened consideration of the applications for the Zoning Board of Appeals January 9, 2014 meeting. Recognizing Mr. Himmelberger’s attendance representing neighbors to the property at 646 Worcester Street, Ms. Conroy initiated discussion on ZBA 2014-02. Mr. Himmelberger indicated that he was representing Helen Robichaud, 642 Worcester Street, and that his client was opposed to the petition as presented. The Board discussed the application. Ms. Preston noted that she appreciated the neighborhood’s insight on the application. Mr. Glick expressed concern that people seemed to find ways to rebuild nonconforming uses and structures, and wondered what percentage of removal of a structure constituted demolition.

The Board voted to recommend that the ZBA deny the application, and noted that the Zoning Bylaw as well as Massachusetts General Law do not authorize the ZBA to grant a Special Permit to allow the voluntary demolition of a nonconforming use and

the reconstruction of the same nonconforming use; the Board indicated that case law supported the Board's position, specifically Bartlett v. Board of Appeals of Lakeville, 23 Mass. App. Ct. 664 (1987), Ka-Hur Enterprises, Inc. v. Zoning Board of Appeals of Provincetown, 424 Mass. 404 (1997), and Berliner v. Feldman, 363 Mass 767 (1973).

The Board considered the remaining cases, as follows:

- *2014-01 - 13 Clovelly Road: Voted 4-1 to recommend that the Special Permit be granted, and 4-1 to recommend that the Variance be granted. Mr. Glick objected to the granting of the Variance for the proposed deck based on the opinion that the shape of the subject lot and its nature as a corner lot is not unique, and therefore does not justify the granting of the Variance.*
- *2014-03 - 156 Washington Street: Voted 5-0 to recommend that the Special Permit be granted, with the condition that the reconstructed and/or relocated decks and hot tub be located in conformance to Section XIX, Yard Regulations, of the Zoning Bylaw.*
- *2014-04 - 27 Roberts Road: Voted 5-0 to recommend that the Special Permit be granted.*

5. Old Business

a. Consider Warrant/Placeholder Language for SBHD Proposals

Documents

- Memo from Erin Heacock, Planner, to Planning Board, titled "Status Update on Single Building Historic Districts and Request to Approve Warrant Article Language", dated December 31, 2013

Ms. Conroy recognized Ms. Heacock, who provided the Board with an overview of the Article, along with the proposed warrant language, to establish two new single building historic districts at 26 Elmwood Road and 126 Woodlawn Avenue. The Board discussed their co-sponsorship of the Article and the warrant language.

Mr. Glick made a motion that the Board co-sponsor the Article and approve the proposed warrant language. Ms. Carpenter seconded the motion. Ms. Conroy called for a vote. The Board voted 5-0 to approve the motion.

c. Off-Street Parking Study - Status, Comments on Draft and Consideration of Contract Amendment

Documents

- Memo from Planning Staff to Planning Board, titled "Parking Regulations Study and Contract", dated December 31, 2013;

- Letter from Keri Pyke, Howard/Stein Hudson Associates, Inc., to Michael Zehner, dated December 30, 2013;
- Agreement for Services between Wellesley Planning Board and Howard/Stein-Hudson Associates, Inc., dated April 9, 2013; and
- Off-Street Parking Bylaw Amendment - Draft 1

Ms. Conroy opened discussion, taking this item out of the order as listed on the agenda since they were waiting for Ms. Jop to discuss the next item. Mr. Parsons provided the Board with an update on the status of the Study, and the request to extend the contract expiration date.

Ms. Conroy asked for a motion to approve the extension of the contract between the Board and Howard/Stein-Hudson Associates, Inc. from October 31, 2013 to March 31, 2014. Ms. Preston made the requested motion. Ms. Carpenter seconded the motion. Ms. Conroy called for a vote. The Board voted 5-0 to approve the motion.

b. Review Framework and Consider Sponsorship of Registered Marijuana Dispensaries Amendment/Extension

Documents

- Memo from Michael Zehner to Planning Board, titled “Review Framework and Consider Sponsorship of Registered Marijuana Dispensaries”, dated January 2, 2014; and
- Memo from Meghan Jop to Board of Selectmen, dated December 13, 2013

Ms. Conroy opened discussion, welcoming Ms. Jop from the Selectmen’s Office. Mr. Zehner reviewed the draft proposed zoning language provided by Ms. Jop. The Board, Mr. Zehner, and Ms. Jop discussed the draft language and the function of the regulations, with Board members making suggestions for consideration in future drafts.

The Board expressed that it was their intent to co-sponsor the Article.

d. Budget, Work Plan, and Warrant Articles Presentation to Advisory

Documents

- Memo from Michael Zehner to Planning Board, titled “Budget, Work Plan, and Warrant Articles Presentation to Advisory”, dated January 2, 2014

Mr. Zehner provided the Board with an overview of his memo and the intent of the upcoming presentation to Town Meeting. Mr. Zehner also indicated that the Board would need to work on their budget request and their work plan for the next year. The Board discussed the plan for recodifying the Zoning Bylaw, Mr. Zehner suggested updating only a few sections of the Bylaw at a time, indicating that the *Definitions* section would likely need to be updated every time. The Board also discussed the update of the *Comprehensive Plan*. Mr. Zehner indicated that he would develop a preliminary budget forecast for the *Comprehensive Plan*. Mr. Zehner discussed the use of the Board’s Professional Services Funds, and asked the Board to consider what they would like to use the funds for in FY15.

Mr. Zehner indicated that he would provide the Board with a draft of the presentation to the Advisory Committee at future meetings.

Mr. Glick asked about the status of the Wellesley Square Initiative. Mr. Parsons provided the Board with an update.

Ms. Conroy suggested that Planning Department staff could perhaps assist with code enforcement, particularly with respect to signs. Mr. Zehner indicated that Katherine Babson would be looking at Town Government, which may provide the opportunity to look at enforcement differently. The Board discussed noncompliant signage issues.

e. Giele FOIA Response

Documents

- Memo from Michael Zehner to Planning Board, titled “Giele FOIA Response”, dated January 2, 2014; and
- Email from Janet Giele to the Office of the Attorney General, dated January 5, 2014, along with attached letter from Ms. Giele to the Office of the Attorney General, dated January 5, 2014 (provided to Board at meeting)

Ms. Conroy asked Mr. Zehner to provide the Board with copies of Ms. Giele’s letter to the Office of the Attorney General. Mr. Zehner discussed the Freedom of Information Act (“FOIA”) request and his response. Mr. Glick asked why the Planning Department was responsible for the FOIA response. Mr. Zehner indicated that he served as the custodian of the Department and Board’s records. Ms. Conroy suggested that Board discuss the matter further at the next meeting, in Executive Session.

6. New and Other Business

Ms. Conroy indicated that there was no new or other business on the Board’s agenda.

7. Adjourn

Hearing no other business, Ms. Conroy asked for a motion to adjourn. Ms. Preston made a motion to adjourn. Ms. Carpenter seconded the motion. Ms. Conroy called for a vote. The motion was approved unanimously, 5-0.

Meeting Adjourned: 9:22 p.m.

Next Meeting: January 21, 2014 *Note: ultimately cancelled, rescheduled to January 27, 2014*

Minutes Approved: April 6, 2015

Note: A recording of this meeting is available from the Planning Department.

Michael D. Zehner, AICP
Planning Director